

This letter provides a reference to the Department's proposed rules regarding the Commercial Distribution Fee Sales Tax Exemption. See 86 Ill. Adm. Code 130.341. (This is a GIL.)

March 12, 2004

Dear Xxxxx:

This letter is in response to your letter dated August 4, 2003, in which you request information. We apologize for the delay in responding to your inquiry. The Department issues two types of letter rulings. Private Letter Rulings ("PLRs") are issued by the Department in response to specific taxpayer inquiries concerning the application of a tax statute or rule to a particular fact situation. A PLR is binding on the Department, but only as to the taxpayer who is the subject of the request for ruling and only to the extent the facts recited in the PLR are correct and complete. Persons seeking PLRs must comply with the procedures for PLRs found in the Department's regulations at 2 Ill. Adm. Code 1200.110. The purpose of a General Information Letter ("GIL") is to direct taxpayers to Department regulations or other sources of information regarding the topic about which they have inquired. A GIL is not a statement of Department policy and is not binding on the Department. See 2 Ill. Adm. Code 1200.120. You may access our website at www.ILTAX.com to review regulations, letter rulings and other types of information relevant to your inquiry.

The nature of your inquiry and the information you have provided require that we respond with a GIL. In your letter you have stated and made inquiry as follows:

On behalf of the 1,200 members of the AAA who are licensed, franchised new car dealers in Illinois, we hereby respectfully request the Department answer a few questions regarding the new Commercial Distribution Fee tax exemption. With the creation of the Commercial Distribution Fee and its related tax exemption, some of our members have presented questions about the breadth of the exemption and desire some assurances from the Department of Revenue.

To confirm the scope of the tax exemption, we have presented a hypothetical transaction below and subsequent questions. We understand that the nature of this request requires the Department to respond with a General Information Letter.

Hypothetical Transaction: On July 2, 2003, a Licensed Illinois Motor Vehicle Dealer sells a pickup truck and a Chevrolet Suburban to an Illinois resident. Both vehicles are second division vehicles. BBB specifies that the Gross Vehicle Weight of the type of PICKUP TRUCK sold is over 8,000 pounds. CCC specifies that the Gross Vehicle Weight of the type of Chevrolet Suburban sold is over 8,000 pounds. The customer completes the CDF-7 form and applies for D registration plates.

1. The sales are exempt from the Retailers Use and Occupation taxes pursuant to the Commercial Distribution Fee tax exemption, correct?

2. The availability of the tax exemption does not depend upon the use (business, personal or both) of the vehicles, correct? In other words, if the owner simply uses the trucks to carry groceries, the tax exemption would still be available, correct?
3. Although the Gross Vehicle weight of the particular Chevrolet Suburban sold is over 8,000 pounds, the curb weight, is under 8,001 pounds. Even if the customer above never uses the Suburban in such a manner as to cause the gross vehicle weight to exceed 8,000 pounds, the tax exemption is still available, correct?
4. The application of the tax exemption does not depend upon whether the vehicle sold is new or used, correct?
5. The application of the tax exemption does not depend upon whether the truck would qualify as "rolling stock", correct?

Our organization sincerely appreciates your prompt attention and assistance in this matter. I look forward to receipt of your response. If you have any questions, please do not hesitate to call.

DEPARTMENT'S RESPONSE:

We regret that we cannot provide you with a specific answer in the context of a General Information Letter. Please see the Department's recently filed proposed rules regarding the Commercial Distribution Fee Sales Tax Exemption that may be viewed on the Department's website listed below. 86 Ill. Adm. Code 130.341.

I hope this information is helpful. If you require additional information, please visit our website at www.ILTAX.com or contact the Department's Taxpayer Information Division at (217) 782-3336. If you are not under audit and you wish to obtain a binding PLR regarding your factual situation, please submit a request conforming to the requirements of 2 Ill. Adm. Code 1200.110 (b).

Very truly yours,

Terry D. Charlton
Associate Counsel

TDC:msk